

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

APR 10 2006

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ABELARDO SEPULVEDA-URIBE,

Defendant - Appellant.

No. 05-10364

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

D.C. No. CR-04-00319-SRB

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Arizona
Susan R. Bolton, District Judge, Presiding

Submitted April 5, 2006^{**}

Before: HAWKINS, McKEOWN, and PAEZ, Circuit Judges.

Abelardo Sepulveda-Uribe appeals from his guilty-plea conviction and 48-month sentence for possession of cocaine with intent to distribute, and being an illegal alien in possession of a firearm, in violation of 21 U.S.C. §§ 841(a)(1),

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

(b)(1)(C), and 18 U.S.C. §§ 922(g)(5), 924(a)(2).

Sepulveda-Uribe's attorney has moved to withdraw pursuant to *Anders v. California*, 386 U.S. 738 (1967), on the ground that the appeal presents no arguable issues. Sepulveda-Uribe has not submitted a pro se supplemental brief.

Because our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 82-83 (1988), indicates that Sepulveda-Uribe knowingly and voluntarily waived his right to appeal, and was sentenced within the terms of the plea agreement, we enforce the waiver and dismiss the appeal. *See United States v. Nguyen*, 235 F.3d 1179, 1182 (9th Cir. 2000) (stating that an appeal waiver is valid when it is entered knowingly and voluntarily).

Counsel's motion to withdraw is **GRANTED**, and the appeal is **DISMISSED**.